



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR-PP, OPRM-DR, FFL

This matter proceeded by way of an *ex parte* Direct Request Proceeding pursuant to section 55(4) of the *Residential Tenancy Act* (the “*Act*”) and dealt with an Application for Dispute Resolution filed by the Landlord for an order of possession and a monetary order based on unpaid rent, and an order granting recovery of the filing fee.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding document which declares that the Landlord served the Tenant with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on March 23, 2021. Service of these documents in this manner was supported by Canada Post receipts which included the tracking number. Pursuant to sections 89 and 90 of the *Act*, I find these documents are deemed to have been received by the Tenant on March 28, 2021, five days after they were mailed.

In an *ex parte* Direct Request Proceeding, the onus is on the landlord to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the landlord cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

Policy Guideline #39 confirms that a landlord making an application for dispute resolution by Direct Request must provide documentation including those showing changes to the tenancy agreement or tenancy, such as rent increases, or changes to parties or their agents.

I have reviewed all documentary evidence and I find that the Landlord named in the application differs from the names provided in both the tenancy agreement and the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities submitted. Further, I find there is insufficient evidence or documentation showing that the Landlord is the owner of the rental property or is otherwise entitled to any orders that may result from this application.

As this is an *ex parte* proceeding that does not allow for any clarification of the facts, I must be satisfied with the documentation presented. The discrepancy in the landlord's name raises questions that cannot be addressed in a Direct Request Proceeding.

Considering the above, I order that the Landlord's requests for an order of possession and a monetary order for unpaid rent or utilities are dismissed with leave to reapply.

As the Landlord has not been successful, I order that the request to recover the filing fee is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 12, 2021

Residential Tenancy Branch